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**Introduced by Senator Hollingsworth**

February 22, 2005

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An act to amend Section 12028.7 of the Penal Code, relating to firearms.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1038, as introduced, Hollingsworth. Firearms.

Existing law prescribes the procedure to be followed for the recovery of any firearm confiscated by a law enforcement officer.

This bill would provide for an award of attorney's fees if a civil action is required to recover a firearm that was not returned within 5 days.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 12028.7 of the Penal Code is amended  
2     to read:  
3     12028.7. (a) When a firearm is taken into custody by a law  
4     enforcement officer, the officer shall issue the person who  
5     possessed the firearm a receipt describing the firearm, and listing  
6     any serial number or other identification on the firearm.  
7     (b) The receipt shall indicate where the firearm may be  
8     recovered, any applicable time limit for recovery, and the date  
9     after which the owner or possessor may recover the firearm  
10    pursuant to Section 12021.3. *In any civil action or proceeding for*  
11    *the return of a firearm seized and not returned within five days,*  
12    *pursuant to this section, the court shall award reasonable*  
13    *attorney's fees to the prevailing party.*

- 1     (c) Nothing in this section is intended to displace any existing
- 2     law regarding the seizure or return of firearms.

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